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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,739	03/04/2002	Yuichi Matsumoto	03500.016250.	2224
5514 7590 12/22/2008 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER				
PENG, FRED H				
ART UNIT		PAPER NUMBER		
2426				
MAIL DATE		DELIVERY MODE		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/086,739

**Applicant(s)**

MATSUMOTO ET AL.

**Examiner**

FRED PENG

**Art Unit**

2426

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 19, 30, 34 and 35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 19, 30, 34 and 35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1, 19, 30 and 34-35 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1, 19, 30 and 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al (US 2006/0136965) in view of Hassell et al (US 2008/0189745) and Alexander et al (US 6,177,931).

Regarding Claims 1, 19 and 30, Ellis discloses a data receiving apparatus connected with a recording apparatus (FIG.3, FIG.4) with corresponding method and a storage medium (FIG.3, -44) storing a program for recording a television broadcast program, and booking to record the program (Para 102 lines 1-3), said data receiving apparatus comprising:

a receiving unit adapted to receive a television broadcast program (FIG.3, -28);

an input unit adapted to input booking information about a program (FIG.3, -40), which is booked to be recorded from said recording apparatus (Para 102); and

a profile generation unit adapted to generate a user profile of said data receiving apparatus on the basis of a view history of a broadcast program received by said receiving unit (Para 107 lines 1-9);

a profile updating unit adapted to update said user profile on the basis of the booking information input by said input unit (Para 107 lines 9-11);

a searching unit adapted to search for a desired program in the television broadcast program received by said receiving unit based on the user profile updated by said profile updating unit (Para 77 lines 5-12).

Ellis is silent about booking cancellation information about the booked program, and recording end information about the booked program and updating the user profile if booking for recording is not canceled in said recording apparatus, and not updating the user profile when the booking is canceled in said recording apparatus.

In an analogous art, Hassell discloses inputting recording end information about the booked program (Para 51 lines 10-15; Para 64). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify Ellis' system to include inputting recording end information about the booked program, as taught by Hassell to provide an option to the user thereby better accommodate user's needs and preferences.

Ellis and Hassell are not explicit about booking cancellation information about the booked program with a deleting unit adapted to delete the booking information and updating a profile in accordance with the input recording end information when booking is not cancelling and updating the user profile without the booking information when booking is cancelled.

In an analogous art, Alexander discloses a user interface to cancel a booked program (FIG.6, remove a scheduled recording). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to include booking cancellation information about the booked program with a deleting unit adapted to delete the booking information as a common convenient feature for recording.

Alexander further discloses a profile program accumulates the number of times that the viewer actually recorded the programs and keep track of each interaction with the program guide including recording activities for further analysis (Col 29 lines 14-55; profile program collects all the interactive activities with the EPG hence including booked recording cancellation and input recording end information as taught by Hassell).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the combined system of Ellis and Hassell to include updating a profile by accumulating the number of times that the viewer actually recorded the programs and keep track of each interaction with the program guide including recording activities as taught by Alexander to learn to recognize a finer breakdown about the various types of data collected and then use the learned information to described a viewer preference (Col 29 lines 56-60).

Regarding Claim 34, Ellis and Alexander both are silent about updating user profile with a weight dependent upon a duration of recording corresponding to the booking information.

Length of a program viewed by a user can be a weighting factor for a user preference is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to include length of recording as a weighting factor for a user preference to obtain broader data statistics collection.

Regarding Claim 35, Alexander discloses a profile program that only tracks number of times that the viewer actually recorded the programs and hence is independent from the duration of the recording.

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRED PENG whose telephone number is (571)270-1147. The examiner can normally be reached on Monday-Friday 09:00-18:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Fred Peng  
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/Annan Q Shang/  
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